

## Owners Corporation Rules

### Owners Corporation No. 2 Plan of Subdivision PS 732089X 5 Blanch Street, Preston – BELLEVIEW APARTMENTS

#### 1. Definitions

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##### 1.1. Definitions

1.1.1. In these rules:

- (a) "**Act**" means the *Owners Corporations Act 2006* (Vic);
- (b) "**Car Space**" means a car space in a Car Stacker;
- (c) "**Car Stacker**" means the car stacking machinery and associated equipment;
- (d) "**Common Property**" means the Common Property shown as Common Property 1 on the Plan;
- (e) "**Guest**" means a person who is a guest, visitor, invitee, family member or friend of an Owner or Occupier of a Lot;
- (f) "**Lot**" means a Lot shown on the Plan being the Lots affected by the Owners Corporation;
- (g) "**Member**" means a Member of the Owners Corporation;
- (h) "**Model Rules**" means the model rules as referred to in section 139 of the Act;
- (i) "**Owner**" means an owner of a lot on the Plan of Subdivision who is also a Member of the Owners Corporation;
- (j) "**Owners Corporation**" means Owners Corporation 2 on the Plan;
- (k) "**Plan**" means Plan of Subdivision No. PS 732089X;
- (l) "**Rules**" means these rules including the Model Rules any Rules contained within this document.

##### 1.2. Model Rules

1.2.1. Any Rules contained in this document take precedence over the Model Rules.

1.2.2. If the Model Rules provide for a matter and the Rules contained in this document do not provide for that matter, the Model Rules relating to that matter are deemed to be included in the Rules.

#### 2. Application of Rules

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2.1.1. These rules only apply to the Common Property and do not apply to the common property shown as Common Property 1 on the Plan.

2.1.2. The Common Property may only be used for car parking and for ingress and egress to the car parking spaces.

### **3. Car Spaces and Car Stacker**

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#### **3.1. Right of Use**

Each Owner who has been allocated the use of a Car Stacker has the right to use the allocated spot in Common Property No. 2. The Owner may allow an Occupier or Guest to use the allocated spot.

#### **3.2. Use**

3.2.1. An Owner's right to use a car space is subject to unavailability of the car space for maintenance, repair and replacement of a Car Stacker in the ordinary course and due to unexpected circumstances or emergency events.

3.2.2. The Owners Corporation is not liable for and the Owner releases and indemnifies the Owners Corporation from and against, the failure of the Car Stacker due to maintenance, repair or replacement in the ordinary course or due to unexpected circumstances or emergency events.

#### **3.3. Owners Corporation's obligations**

3.3.1. The Owners Corporation must maintain, repair and replace the Car Stacker when the Owners Corporation decides the Car Stacker is at the end of its economical or practical life or it is otherwise appropriate to replace it.

3.3.2. The Owners Corporation must do all things reasonably required to ensure that the Car Stacker operates in the ordinary course as designed except during times of schedule maintenance, repair or replacement.

3.3.3. The Car Stacker will be allocated so that a Lot Owner will be entitled to use a platform designated to it.

3.3.4. The Owners Corporation must obtain and maintain public liability insurance in its name for the maintenance, repair, operation and replacement of the Car Stacker to the extent that there are reasonable insurance risks

#### **3.4. Owners' obligations**

3.4.1. Each Owner must ensure that it and any Occupiers or Guests:

- (a) complies with the Owner's obligations as outlined in these Rules.
- (b) do not allow or permit any person to use the Car Stacker who is not an Owner or Occupier of the Owner's lot.
- (c) only use the Car Stacker for the parking of cars which meet the Car Stacker manufacturer's specifications and the requirements of the Owners Corporation.
- (d) do not use a car space when the Car Stacker is being maintained, replaced or repaired.
- (e) remove from the Car Stacker the Owner or Occupier's cars as and when requested by the Owners Corporation or its authorised repairer for any scheduled, unexpected or emergency maintenance, repair or replacement.
- (f) indemnify and release the Owners Corporation from and against any loss or cost due to the Owner's failure to observe any of these rules.

- (g) do not allow or permit any other person to use the Car Stacker if they have not undertaken an induction and training course on the Car Stacker's use.
- (h) provide particulars of the Occupier's car or cars including registration numbers and advise the Owners Corporation of any change.
- (i) do not do anything to damage or misuse the Car Stacker equipment.
- (j) do not do anything which interferes with the use of the Car Stacker by other Owners entitled to use it.
- (k) only use the Car Stacker space for cars that are owned or used by the Owner or Occupier of a Lot.
- (l) comply with any rules, requirements or directions about any security device which activates or operates the Car Stacker.
- (m) promptly report any damage, malfunction or failure of the Car Stacker to operate.
- (n) reimburse the Owners Corporation for all loss, damage or cost incurred by the Owners Corporation because of any damage caused to the Car Stacker by the Owner or the Owner's lot Occupier.
- (o) not delegate, assign or sublet any of its rights under this rule to anyone other than the Occupier of a Lot on the plan.
- (p) if required by the Owners Corporation, enter into an agreement about the use of the Car Stacker and the Common Property.

### 3.5. Payment

- 3.5.1. Each Owner must pay the Owners Corporation the Owner's proportion according to the Owners Corporation schedule for Owners Corporation No 2 of:
  - (a) the costs of operating, maintaining, repairing and replacing each Car Stacker at the end of its economic life;
  - (b) insuring against damage and destruction of the Car Stacker, against third party personal injury and third party property damage;
  - (c) contribution to a sinking fund for the replacement of the Car Stacker at the end of its economic life ('**Sinking Fund**'); and
  - (d) any other costs, expenses and liabilities of the Owners Corporation in fulfilling its obligation under this rule.
- 3.5.2. The Owner must pay the Owner's proportion of the costs even if the Owner does not use a Car Space.
- 3.5.3. The Owners Corporation must maintain the Sinking Fund if established.